



The Attorney General of Texas

October 13, 1978

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Honorable Preston Henrichson
Criminal District Attorney pro tem
Hidalgo County
Edinburg, Texas 78539

Opinion No. H-1257

**Re: Supplemental salary of
County Auditor under article
1672.**

Dear Mr. Henrichson:

The Criminal District Attorney asked the following questions regarding salary of the county auditor for Hidalgo County:

1. Are 'special road districts' and county-wide drainage districts within the meaning of 'improvement districts' under Article 1672, Vernon's Civil Statutes Annotated?

2. Is the County Commissioner's Court authorized to pay less than the \$1,200.00 set under Article 1672, if there are less than five improvement districts and the auditor is already receiving a maximum salary under Article 1645?

3. Is the County Commissioner's Court authorized to pay more than the \$1,200.00 set under 1672 when the auditor audits more than five improvement districts, and the auditor is already receiving a maximum salary under Article 1645?

You state that there are seven special road districts in the county and a county wide drainage district which are audited by the auditor.

Article 1672, applicable to counties with a population of 110,000 or more, provides that the auditor shall be paid additional compensation for his services to improvement districts. If there are five such districts the auditor is to be paid a minimum of \$1,200 to be prorated among the districts as the commissioners court determines. Article 1672 was enacted in 1915 as section 6 of Senate Bill 6. Acts 1915, 34th Leg., ch. 11, at 17. Section 1 of that Act, codified as article 1667, V.T.C.S., specifically refers to drainage and road

districts as improvement districts. It is our opinion that the districts about which you inquire are "improvement districts" for purposes of article 1672. Attorney General Opinion H-809 (1976).

If there are less than five improvement districts in the county, article 1672 provides that the "auditor shall receive for his services in auditing the affairs of such districts, such compensation as the commissioners court may prescribe, which shall be paid by the county out of the general fund and repaid to the county by such districts. . . ." It is our opinion that the commissioners court may pay the auditor an amount which in its discretion is reasonable compensation for services rendered. If there are five improvement districts, the commissioners court shall pay the auditor not less than \$1,200.

You ask whether the auditor can be paid these amounts if he is already receiving his maximum salary under article 1645, V.T.C.S. Article 1645 provides in part that the auditor

shall receive as compensation for his services an annual salary from the County General Fund of not more than the amount allowed or paid the Assessor-Collector of Taxes.

(Emphasis added).

We believe this is a limitation on the amount which can be paid to the auditor from the county's revenue only and does not act as a limitation on compensation received from other sources, e.g., improvement districts. Although this additional compensation under article 1672 is initially paid by the county, the county must be reimbursed by the special districts. Attorney General Opinion C-278 (1964). Therefore, it is not compensation "from the County General Fund."

In Attorney General Opinion V-1522 (1952) it was said that

[i]t is clearly the intention of the legislature that the county auditor should receive both the compensation provided in Article 1645 'for his services to the county' and the compensation provided in Article 1672 'for his service in auditing the affairs of such districts.'

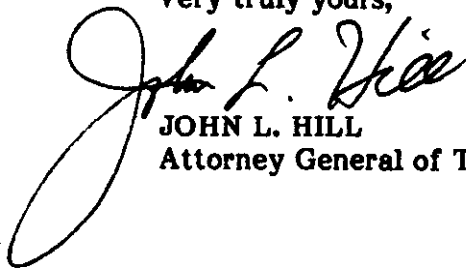
We agree. Further, we believe that the auditor may receive article 1672 compensation even though he is currently receiving his maximum salary from the county under article 1645.

S U M M A R Y

Road and drainage districts are "improvement districts" under article 1672. The auditor may receive compensation

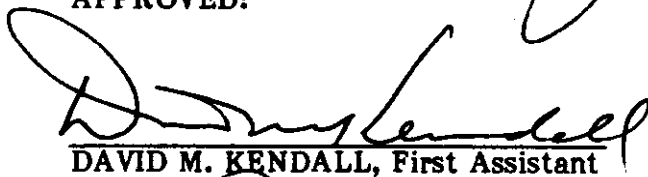
for service to improvement districts over and above his maximum salary from the county.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant
C. ROBERT HEATH, Chairman
Opinion Committee

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